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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/499,563 | 02/07/2000 | Satoshi Yoneya | 450100-02315 | 1453 |

20999 7590 09/30/2003

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745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

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| EXAMINER |
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TRAN, THAI Q

| ART UNIT | PAPER NUMBER |
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2615

DATE MAILED: 09/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/499,563 | YONEYA ET AL. |
| | Examiner | Art Unit |
| | Thai Tran | 2615 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-56 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-56 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 February 2000 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 13-28, drawn to a data recording and reproducing apparatus having input means for changing the divide ratio of a record area for video and a record area for audio data of said record medium corresponding to at least the data this is input from the outside and outputting record area information and the data to said recording and reproducing means so that the video data and the audio data are recorded to predetermined areas of the recording medium, classified in class 386, subclass 98.
 - II. Claims 29-36, drawn to a data recording and reproducing apparatus/method having input means for outputting record area information and the data to said recording and reproducing means so that the video data is recorded corresponding to RAID3 composed of the plurality of record mediums, that the audio data is recorded to a record area different from a record area for the video data of the same record medium, and that parity data of the audio data is recorded to a record medium different from the record medium for the audio data and the same as the record medium for the video data, the record area for the parity data being different from the record area for the video data, classified in class 386, subclass 116.

- III. Claims 37-44, drawn to a data recording and reproducing apparatus/method having input means for outputting record area information and the data to said recording and reproducing means so that the video data is recorded corresponding to RAID3 composed of the plurality of record mediums, that the audio data is recorded to a record area different from a record area for the video data of the same record medium, and that different channels of the audio data are recorded to different record mediums, classified in class 386, subclass 99.
- IV. Claims 45-56, drawn to a data recording and reproducing apparatus/method having input means for outputting record area information and the data to said recording and reproducing means so that the video data is recorded corresponding to RAID3 composed of the plurality of record mediums, that the audio data is recorded to a record area different from a record area for the video data of the same record medium, and that the same audio data is recorded to the plurality of record mediums, classified in class 386, subclass 125.

2. The inventions are distinct, each from the other because of the following reasons:
Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as recording and reproducing video and audio signal and does not require the particular such as input means for outputting record area information and the data to said

recording and reproducing means so that the video data is recorded corresponding to RAID3 composed of the plurality of record mediums, that the audio data is recorded to a record area different from a record area for the video data of the same record medium, and that parity data of the audio data is recorded to a record medium different from the record medium for the audio data and the same as the record medium for the video data, the record area for the parity data being different from the record area for the video data of Group II for patentability. See MPEP § 806.05(d).

Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as recording and reproducing video and audio signal and does not require the particular such as input means for outputting record area information and the data to said recording and reproducing means so that the video data is recorded corresponding to RAID3 composed of the plurality of record mediums, that the audio data is recorded to a record area different from a record area for the video data of the same record medium, and that different channels of the audio data are recorded to different record mediums of Group III for patentability. See MPEP § 806.05(d).

Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as recording and reproducing video and audio signal and does not require the particular such as input means for outputting record area information and the data to said

recording and reproducing means so that the video data is recorded corresponding to RAID3 composed of the plurality of record mediums, that the audio data is recorded to a record area different from a record area for the video data of the same record medium, and that the same audio data is recorded to the plurality of record mediums of Group IV for patentability. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as recording and reproducing video and audio signal and does not require the particular such as input means for outputting record area information and the data to said recording and reproducing means so that the video data is recorded corresponding to RAID3 composed of the plurality of record mediums, that the audio data is recorded to a record area different from a record area for the video data of the same record medium, and that different channels of the audio data are recorded to different record mediums of Group III for patentability. See MPEP § 806.05(d).

Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as recording and reproducing video and audio signal and does not require the particular such as input means for outputting record area information and the data to said recording and reproducing means so that the video data is recorded corresponding to RAID3 composed of the plurality of record mediums, that the audio data is recorded to a

record area different from a record area for the video data of the same record medium, and that the same audio data is recorded to the plurality of record mediums of Group IV for patentability. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as recording and reproducing video and audio signal and does not require the particular such as input means for outputting record area information and the data to said recording and reproducing means so that the video data is recorded corresponding to RAID3 composed of the plurality of record mediums, that the audio data is recorded to a record area different from a record area for the video data of the same record medium, and that the same audio data is recorded to the plurality of record mediums of Group IV for patentability. See MPEP § 806.05(d).

3. Claims 1-12 link(s) inventions I to IV. The restriction requirement among the linked invention is **subject to** the nonallowance of the linking claim(s), claims 1-12. Upon the allowance to the linking claim(s), the restriction requirement as to the linked inventions **shall** be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting

rejections over the claims of the instant application. Where a restriction requirement is withdrawn the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

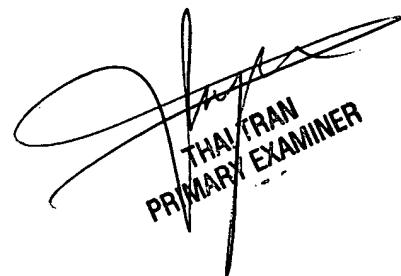
6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Tran whose telephone number is (703) 305-4725. The examiner can normally be reached on Mon. to Friday, 8:00 AM to 5:30 PM.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

TTQ
September 27, 2003



A handwritten signature in black ink, appearing to read "TTQ". Below the signature, the text "THAI TRAN" is printed vertically, followed by "PRIMARY EXAMINER" in a slightly smaller font.